

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KIRSTIN JACKSON on behalf of herself
And all others similarly situated

Plaintiff,

-against-

IMMEDIATE CREDIT RECOVERY, INC.

Defendant.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ DEC 07 2005 ★

LONG ISLAND OFFICE

CLASS ACTION
COMPLAINT

CV 05 5697
TOMMIES, J.

GOLD, M.

Plaintiff, by and through her attorney, Adam J. Fishbein, as and for her complaint alleges
as follows:

INTRODUCTION

0.1 This is an action for damages brought by an individual consumer and on behalf of a class for defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA") which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

PARTIES

0.2 Plaintiff, Kirstin Jackson, is a natural person residing in Kings County, New York.

0.3 Upon information and belief, defendant Immediate Credit Recovery, Inc., is a corporation with its principal place of business in Wappingers Falls, New York.

0.4 Upon information and belief, defendant is a debt collector which is engaged in the business of collecting debts as defined pursuant to 15 U.S.C. § 1692a(6).

JURISDICTION

0.5 This Court has jurisdiction pursuant to 15 U.S.C. § 1692k (FDCPA) and 28 U.S.C. § 1331.

AS AND FOR A FIRST CAUSE OF ACTION

- 1.1 Plaintiff realleges paragraphs 0.1 through 0.5 as if fully restated herein.
- 1.2 That a personal debt was allegedly incurred by the plaintiff purportedly to Borough of Manhattan CC-T1.
- 1.3 That at a time unknown to the plaintiff herein, the aforementioned debt was referred to the defendant for collection.
- 1.4 Defendant sent an initial letter to the plaintiff dated June 24, 2005.
- 1.5 Said letter contains the debt validation notice.
- 1.6 Said letter contains a notification for on the backside of the letter for Colorado State Residents only.
- 1.7 Said notification contains rights which are available to all residents of all fifty states under the FDCPA.
- 1.8 Said statement that the rights are for Colorado residents only leads the least sophisticated consumer to believe that a consumer from another state does not have those rights.
- 1.9 Defendant sent the plaintiff an additional letter dated June 25, 2005.
- 1.10 Plaintiff received said letter.
- 1.11 Said letter states in part: "We at Immediate Credit Recovery, Inc. did not receive notification from you disputing the above account within the thirty (30) days allowed as your right under the Fair Debt Collection Practices Act nor did we receive payment in full on the above account. If this account is not paid in full your account will appear as a bad debt on our credit files. Good credit is one of your most valuable assets. This account MUST BE PAID IN FULL NOW! Mail your payment today directly to Immediate Credit Recovery, Inc. in the enclosed envelope to our New York location."
- 1.12 Said letter contains false threats and deceptive representations.
- 1.13 Said letter contradicts the plaintiff's right to dispute the debt.
- 1.14 This cause of action is brought on behalf of plaintiff and the members of a class.
- 1.15 The class consists of consumers who received the same form letter, as did the

plaintiff.

1.16 The Class consists of all persons whom Defendant's records reflect resided in the State of New York and who were sent a collection letter (a) bearing the defendant's letterhead in substantially the same form as the letter sent to the plaintiff on or about July 26, 2005 concerning a personal debt (b) the collection letter was sent to a consumer seeking payment of a consumer debt; and (c) the collection letter was not returned by the postal service as undelivered, (d) and that the letter contained violations of 15 U.S.C. § 1692e5 and 1692e(10) by engaging in false threats and deceptive practices.

1.17 Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:

- (A) Based on the fact that the collection letters that are at the heart of this litigation are mass-mailed form letters, the class is so numerous that joinder of all members is impracticable.
- (B) There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether the Defendant violated the FDCPA.
- (C) The only individual issue is the identification of the consumers who received the letters, (*i.e.* the class members), a matter capable of ministerial determination from the records of Defendant.
- (D) The claims of the plaintiff are typical of those of the class members. All are based on the same facts and legal theories.
- (E) The plaintiff will fairly and adequately represent the class members' interests. The plaintiff has retained counsel experienced in bringing class actions and collection-

abuse claims. The plaintiff's interests are consistent with those of the members of the class.

1.18 A class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA. 15 U.S.C. 1692(k). The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the classes would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.

1.19 If the facts are discovered to be appropriate, the plaintiff will seek to certify a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

1.20 Collection letters, such as those sent by the defendant are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer."

1.21 Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:

- (a) Defendant violated 15 U.S.C. § 1692e(5) by making false threats.
- (b) Defendant violated 15 U.S.C. § 1692e(10) by using false, deceptive and misleading means in connection with the collection of an alleged debt.
- (c) Defendant violated 15 U.S.C. § 1692g by contradicting the plaintiff's rights to dispute the debt and seek verification.

1.22 As a result of the above violations of the FDCPA, defendant is liable to the plaintiff for the sum of plaintiff's statutory damages to be determined at trial, plus costs

and attorney's fees.

WHEREFORE, plaintiff respectfully prays that judgment be entered against defendant in the amount of:

- (a) Statutory damages pursuant to 15 U.S.C. § 1692k in an amount to be determined at the time of trial.
- (b) Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k.
- (c) For such other and further relief as may be just and proper.

Dated: Woodmere, New York
December 5, 2005



Adam J. Fishbein (AF-9508)

Attorney At Law

Attorney for the Plaintiff

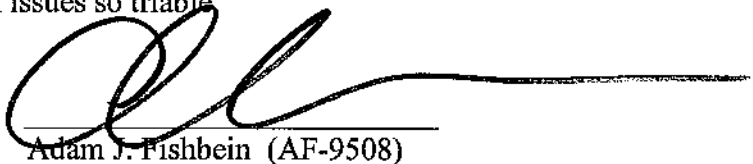
735 Central Avenue

Woodmere, New York 11598

Telephone (516) 791-4400

Facsimile (516) 791-4411

Plaintiff requests trial by jury on all issues so triable



Adam J. Fishbein (AF-9508)

RETURN SERVICE REQUESTED

HOURS OF OPERATION ARE (EASTERN TIME):
MONDAY 8:00 A.M. TO MIDNIGHT
TUESDAY - THURSDAY 8:00 A.M. TO 9:00 P.M.
FRIDAY - 8:00 A.M. TO 4:30 P.M.
SATURDAY - 8:00 A.M. TO 1:00 P.M.

June 24, 2005

Account No.: 848234
Amount Due: 1900.00

KIRSTIN JACKSON
1625 PRESIDENT ST 5F
BROOKLYN, NY 11213-4935



IMMEDIATE CREDIT RECOVERY, INC.
P.O. Box 1900
Wappingers Falls, NY 12590-8900

*** Please See Reverse Side To Pay By Credit Card ***

DETACH UPPER PORTION AND RETURN WITH PAYMENT

Creditor	Amt Owed
BOROUGH OF MANHATTAN CC-T1	1900.00

COLLECTION AGENCY NOTICE

Please be advised that the above mentioned account has been assigned to our PROFESSIONAL COLLECTION AGENCY for collection.

If you do not dispute the validity of this debt, and to prevent further collection activity from being taken, you must make payment in full directly to IMMEDIATE CREDIT RECOVERY, INC. Please make the check payable to our client and use the enclosed envelope with the New York address.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

*** See Reverse Side For Important Information ***

IMMEDIATE CREDIT RECOVERY, INC.
P.O. Box 1900, Wappingers Falls, NY 12590-8900
(845) 296-1010 / (800) 964-5689

HOURS OF OPERATION ARE (EASTERN TIME):
MONDAY 8:00 A.M. TO MIDNIGHT
TUESDAY - THURSDAY 8:00 A.M. TO 9:00 P.M.
FRIDAY - 8:00 A.M. TO 4:30 P.M.
SATURDAY - 8:00 A.M. TO 1:00 P.M.

IF YOU WISH TO PAY BY CREDIT CARD, FILL IN THE INFORMATION BELOW.

(CIRCLE ONE) VISA  / MASTERCARD 

ACCOUNT # _____



EXP. DATE _____ AMOUNT \$ _____ 3 DIGIT SECURITY CODE _____

CARDHOLDER NAME _____

CREDIT CARD BILLING ADDRESS _____

SIGNATURE _____

TO PAY BY PHONE USING YOUR CREDIT CARD OR CHECKING ACCOUNT

 PLEASE CALL 800-964-5689 

*NOTE: CREDIT CARD PAYMENTS ARE PROCESSED BY "NATIONAL PAYMENTS" WHOSE NAME WILL APPEAR ON YOUR STATEMENT.

DETACH UPPER PORTION AND RETURN WITH PAYMENT

California Residents: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstance, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

For Colorado State Residents Only: Unless you, the consumer, within 30 days after receipt of this notice, dispute the validity of the debt, or any portion thereof, the debt will be assumed valid. If you, the consumer, notify us in writing within the 30 day period that the debt or any portion thereof, is disputed, we will obtain verification of the debt or a copy of a Judgment against you, the consumer, and a copy of such verification or Judgment will be mailed to you by our office. Upon your written request, within the 30 day period, we will provide you with the name and address of the original creditor, if different from the current creditor. If you notify our office, in writing, to cease contact by telephone at either your residence or your place of employment, no further such contact shall be made. If you notify our office, in writing, that you refuse to pay the debt or wish our office to cease further communication, we will not communicate further with you except:

- a. To advise you further efforts are being terminated;
- b. To notify you that we may invoke specified remedies which are ordinarily invoked or to notify you that our agency may invoke a specific remedy permitted by law.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.AGO.STATE.CO.US/CAB.HTM

Notice to Tennessee Consumers:

This collection agency is licensed by the Tennessee Collection Service Board of the State Department of Commerce and Insurance.

Notice to Texas Consumers:

Texas law gives Texas consumers a separate right to dispute the accuracy of this debt by giving notice in writing to Immediate Credit Recovery, Inc. If you dispute the accuracy of this debt, upon written request Immediate Credit Recovery, Inc. will provide you with forms for, and assistance in, preparing a notice of inaccuracy regarding the debt.

Texas Residents:

Immediate Credit Recovery, Inc., 169 Myers Corners Rd. Ste 110, Wappingers Falls, NY 12590-3868.

Massachusetts Residents:

Immediate Credit Recovery, Inc., 5230 Washington St., West Roxbury, MA 02132.

State License #'s: City of Buffalo, NY 210552; City of New York, NY 888212; MA CA-0586; CO CA-101669; CT 255; IN 6243; LA CA855; MI 2401001247; NM 552; NC 3186; MD 04-2229; TN 362; WA 602 004 804; WV 133587371001; ME DCL5092; IL 017-020488; AR 2229.

P.O. Box 1900
Wappingers Falls, NY 12590-8900
RETURN SERVICE REQUESTED

IMMEDIATE CREDIT RECOVERY, INC.
P.O. Box 1900 Wappingers Falls, NY 12590-8900
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HOURS OF OPERATION ARE (EASTERN TIME):
MONDAY - THURSDAY 8:00 A.M. TO 9:00 P.M.
FRIDAY - 8:00 A.M. TO 4:30 P.M.
SATURDAY - 8:00 A.M. TO 12:00 P.M.

July 25, 2005

Account No.: 848234
Amount Due: 1900.00
Your Pin: 63206376

KIRSTIN JACKSON
1625 PRESIDENT ST 5F
BROOKLYN, NY 11213-4935

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IMMEDIATE CREDIT RECOVERY, INC.
P.O. Box 1900
Wappingers Falls, NY 12590-8900

*** Please See Reverse Side To Pay By Credit Card ***

DETACH UPPER PORTION AND RETURN WITH PAYMENT

TUITION SPRING 2004

Creditor	Amt Owed
BOROUGH OF MANHATTAN CC-T1	1900.00

URGENT COLLECTION AGENCY NOTIFICATION

We at Immediate Credit Recovery, Inc. did not receive notification from you disputing the above account within the thirty (30) days allowed as your right under the Fair Debt Collection Practices Act nor did we receive payment in full on the above account. If this account is not paid in full your account will appear as a bad debt on our credit files. Good credit is one of your most valuable assets. This account **MUST BE PAID IN FULL NOW!**

Mail your payment today directly to Immediate Credit Recovery, Inc. in the enclosed envelope to our New York location.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

*** See Reverse Side For Important Information ***

*** To view your account and/or make a payment on-line, please visit our web site at pay.icrcollect.com ***

IMMEDIATE CREDIT RECOVERY, INC.
P.O. Box 1900, Wappingers Falls, NY 12590-8900
(845) 296-1010 / (800) 964-5689

pay.icrcollect.com

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